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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

MEDICIS PHARMACEUTICAL
CORPORATION,

Plaintiff,

v.

ACELLA PHARMACEUTICALS, INC.

Defendant.

No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

Jury Trial Requested

Snell & Wilmer

LAW OFFICES
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Plaintiff Medicis Pharmaceutical Corporation ("Medicis") alleges:

JURISDICTION AND VENUE

1. This action arises under the Declaratory Judgment Act and the Patent Statute of the United States of America, Titles 28 and 35 of United States Code, and jurisdiction is founded on Title 28, United States Code §§ 2201(a), 1331, and 1338(a).

2. On information and belief, this Court has personal jurisdiction over Acella because Acella has maintained continuous and systematic contacts with the State of Arizona, including by regularly and systematically conducting business in the State of Arizona, such as by selling and offering to sell drug products in Arizona, and by selling and offering to sell drug products to residents of Arizona, and by placing drug products into interstate commerce for the purpose of selling or having them sold in Arizona.

3. On information and belief, drug products sold, developed and/or manufactured by Acella are for sale and are sold in the State of Arizona.

4. For all the reasons set forth above, this Court has personal jurisdiction over Acella.

5. Venue is proper in this Court for this action under at least Title 28, United States Code §§ 1400(b) 1391.

PARTIES

6. Medicis is a Delaware corporation with its principal place of business in Scottsdale, Arizona. Medicis is the leading independent specialty pharmaceutical company in the United States, focusing primarily on the treatment of dermatological and podiatric conditions and aesthetics medicine. Medicis has developed and commercialized leading branded prescription products in a number of therapeutic categories. Because of their clinical effectiveness and high quality, Medicis's products have earned wide acceptance by both physicians and patients.

7. On information and belief, Defendant Acella Pharmaceuticals, Inc. ("Acella") is incorporated in Georgia, has its principal place of business in Alpharetta, Georgia.

8. On information and belief, Acella conducts business operations in the United States, including in the State of Arizona.

BACKGROUND

9. On August 17, 2010, United States Letters Patent No. 7,776,355 (the '355 patent), was duly issued to Medicis, who is its owner by way of assignment from the inventors. The '355 Patent discloses and claims a drug delivery system for insoluble dermatologically active ingredients. The technology that is disclosed and claimed in the '355 Patent is used in highly successful Medicis products, including Medicis's Triaz[®] Foaming Cloths. Medicis's Triaz[®] Foaming Cloths deliver benzoyl peroxide which is applied to the skin to treat acne. Medicis's Triaz[®] Foaming Cloths are available in three

1 strengths: 3%, 6%, and 9%. Medicis's Triaz[®] Foaming Cloths are highly successful, and
2 the technology of the '355 Patent is responsible in significant part for that success.

3 **COUNT ONE**
4 **Patent Infringement**

5 10. Acella has offered for sale benzoyl peroxide foaming cloths in three
6 strengths: 3%, 6%, and 9%, each of which, according to Acella, "competes with"
7 Medicis's Triaz[®] Foaming Cloths. See Exhibit A.

8 11. Upon information and belief, the manufacture, sale and offer to sell
9 of Acella's benzoyl peroxide foaming cloths directly infringes the '355 Patent's claims.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Medicis prays the Court for the following relief:

12 A. That judgment be entered that Acella's manufacture, offer for sale,
13 and sale of Acella's benzoyl peroxide foaming cloths infringe the '355 Patent;

14 B. That a permanent injunction be issued under 35 U.S.C. § 271(e)
15 restraining or enjoining Acella, its officers, agents or attorneys or employees, and those
16 acting in privity or concert with it, from engaging in the manufacture, use, offer to sell, or
17 sale within the United States, or importation into the United States, of any products
18 covered by the '355 Patent for the full term thereof, and from inducing or contributing to
19 such activities;

20 C. That this is an exceptional case under 35 U.S.C. § 285 and that
21 judgment be entered for costs and reasonable attorney fees to be awarded to Medicis; and

22 D. That this Court award such other and further relief as the Court may
23 deem proper and just under the circumstances.
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1 Dated this 19th day of August, 2010.

2 SNELL & WILMER LLP.

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4 By /s/ Joshua Grabel

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11 Attorneys for Plaintiff Medicis Pharmaceutical
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CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2010, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF filing system.

/s/Joshua Grabel

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